

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-2, F.A.C.

PERMITTING OF CONSUMPTIVE USES OF WATER

Revised
February 2, 2012



CHAPTER 40C-2
PERMITTING OF CONSUMPTIVE USES OF WATER (Formerly 16I-2)

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40C-2.031 Implementation.

(1) An individual consumptive use permitting program has been implemented on the following dates within the District:

(a) December 31, 1976 at 11:59 p.m. in that area transferred to the District from the Central and Southern Florida Flood Control District pursuant to Section 373.069 (Supp. 1976), Florida Statutes, known as the Upper St. Johns River Basin (see figure 2-1).

(b) December 1, 1980 in that area transferred to the District from the Southwest Florida Water Management District pursuant to Section 373.069 (Supp. 1976), Florida Statutes, known as the Green Swamp Sub-basin, (see figure 2-1).

(c) January 1, 1983 in the remaining area of the District not listed in paragraphs (a) and (b) above as described in Section 373.069(2)(c), Florida Statutes (see figure 2-1), and for those uses not regulated prior to January 1, 1983.

(d) A general consumptive use permit by rule permitting program has been implemented within the entire District on 7-23-91.

(e) Within the Delineated Area as set forth in 6.7.1.6, Applicant's Handbook: Consumptive Uses of Water, for those uses requiring a permit under paragraphs 40C-2.041(1)(e) and (f), F.A.C.

(f) February 15, 1995 for secondary users, as defined in paragraph 2.0(w) of the Applicant's Handbook: Consumptive Uses of Water, which are required to obtain a permit pursuant to paragraph 40C-2.041(1)(g), F.A.C.

(2) The effective dates specified in subsection (1) above are to be used to determine the beginning of the two-year period provided in Section 373.226, Florida Statutes, in which existing water users are to file initial applications. Failure to apply within the period of two years from the effective date of implementation shall create a conclusive presumption of abandonment of

the use and if the user desires to revive the use, he must apply for a permit under the provisions of subsection 40C-2.301(2), F.A.C.

(3) The program previously implemented in the areas described in paragraphs (1)(a) and (b) above is superseded throughout the District by the rules that become effective on January 1, 1983.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.219, 373.223, 373.224, 373.226 FS. History—New 1-1-83, Formerly 40C-2.031, 40C-2.0031, Amended 7-23-91, 12-6-93, 2-15-95, 1-7-99, 2-15-06.

40C-2.041 Permits Required.

(1) Unless expressly exempted in Rule 40C-2.051, F.A.C., the Board hereby requires a consumptive use permit for any of the following:

(a) Average annual daily withdrawal exceeding one hundred thousand (100,000) gallons average per day on an annual basis.

(b) Withdrawal equipment or other facilities which have a capacity of more than one million (1,000,000) gallons per day.

(c) Withdrawals from a combination of wells or other facilities, having a combined capacity of more than one million (1,000,000) gallons per day.

(d) Withdrawals from a well in which the outside diameter of the largest permanent water bearing casing is six inches or greater. For purposes of this paragraph, the diameter of the well at ground surface will be presumed to be the diameter of the well for the entire length unless the well owner or well contractor can demonstrate that the well has a smaller diameter water bearing casing below ground surface.

(e) Within the Delineated Area as set forth in 6.7.1.6, Applicant's Handbook: Consumptive Uses of Water, withdrawals from a well in which the outside diameter of the largest permanent water bearing casing is five inches or greater. For purposes of this paragraph, the diameter of the well at ground surface will be presumed to be the diameter of the well for the entire length unless the well owner or well contractor can demonstrate that the well has a smaller diameter water bearing casing below ground surface.

(f) Within the Delineated Area as set forth in 6.7.1.6, Applicant's Handbook: Consumptive Uses of Water, uses of water for freeze protection of agricultural and nursery property greater than five acres in size.

(g) Any secondary use, as defined in paragraph 2.0(w) of the Applicant's Handbook: Consumptive Uses of Water, which exceeds 100,000 gallons per day estimated on an average annual basis.

(2) Those thresholds in paragraphs 40C-2.041(1)(a) through (c) and (g), F.A.C., above refer to the total capacity of the water withdrawal equipment or wells located on contiguous properties that are owned, operated or controlled by any person, or facilities that are part of one contiguous system.

(3) Uses not exceeding 500,000 gallons per day calculated as an annual average are processed as standard general permits pursuant to Chapter 40C-20, F.A.C.

(4) Uses which are existing on the effective date of implementation shall be governed in accordance with the provisions of Section 373.226, Florida Statutes.

(5)(a) The Governing Board may designate specific geographic areas in which permits shall be required for amounts less than those specified in subsection (1) above.

(b) Such designation shall be adopted by rule pursuant to Chapters 120 and 373, F.S.

(c) Prior to the adoption of such rule, the Governing Board shall hold at least one public meeting in the vicinity of the area for which such designation is proposed. The purpose of such public meeting shall be to hear testimony regarding the justification for such designation and regarding the anticipated impacts of such designation.

Rulemaking Authority 373.113, 373.216 FS. Law Implemented 373.219, 373.226 FS. History—New 1-2-77, Amended 1-1-83, 6-1-84, Formerly 40C-2.04, Amended 5-31-84, Formerly 40C-2.041, 40C-2.0041, Amended 7-23-91, 12-6-93, 2-15-95, 4-25-96, 1-7-99, 11-11-03.

40C-2.042 General Permit by Rule.

A general consumptive use permit by rule is hereby established for consumptive uses of water listed below that do not meet or exceed any permitting threshold under subsection 40C-2.041(1), F.A.C., except as provided in subsection 40C-2.042(8), F.A.C. However, this rule shall not apply to domestic uses of water by individuals, i.e., water used for the household purposes of drinking, bathing, cooking or sanitation. Persons using or proposing to use water in a manner not authorized under this rule, must obtain a permit pursuant to Chapter 40C-2, 40C-20, or 40C-22, F.A.C.

(1) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water to irrigate agricultural crops, nursery plants, cemeteries, golf courses and recreational areas such as playgrounds, football, baseball, and soccer fields, provided the irrigation does not occur between the hours of 10:00 a.m. and 4:00 p.m. daily, and provided the amount of water used is limited to only that necessary for efficient utilization. Such water use shall be subject to the following exceptions:

(a) Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed anytime.

(b) The use of water for irrigation from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods.

(c) The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

(d) Irrigation is allowed at any time of day for one 30-day period following planting of agricultural crops or nursery stock, provided that the irrigation is limited to the minimum amount necessary for crop or plant establishment. Irrigation of newly planted, seeded or sprigged cemeteries, golf course greens, tees, fairways and primary roughs, and recreational areas such as playgrounds, football, baseball and soccer fields is allowed at any time of day for one 60-day period.

(e) Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices is allowed any time of day within 24 hours of application. Watering in of chemicals shall not exceed 1/4 inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

(f) Irrigation systems may be operated any time of day for maintenance and repair purposes not to exceed 20 minutes per hour per irrigation zone.

(g) Irrigation of agricultural crops by seepage systems which regulate off-site discharges through the use of water control structures is allowed anytime, provided the discharge does not

overtop the control structure by more than one-half inch, there is no discharge between 1:00 p.m. and 7:00 p.m. unless associated with a storm event, and the structure is well maintained.

(h) The use of water to protect agricultural crops and nursery plants, except ferns, from frost or freeze damage is allowed when freezing temperatures or frost are predicted by an official weather forecasting service.

(i) The use of water to protect ferns from frost or freeze damage is allowed when the “wet bulb” temperature, as measured by a “wet bulb” thermometer at the site of application, is 34 degrees Fahrenheit or less. Freeze protection must cease when temperatures rise above 40 degrees Fahrenheit.

(j) The use of water to protect agricultural crops, nursery plants and golf course turf from heat stress damage is allowed anytime, provided the watering does not exceed ten minutes per hour per irrigation zone.

(k) Irrigation of agricultural crops by traveling volume guns which require manual repositioning is allowed anytime.

(l) Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed anytime.

(m) Discharge of water from a water-to-air air conditioning unit or other water dependent cooling system is not limited by this permit.

(2)(a) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water for landscape irrigation, provided landscape irrigation occurs in accordance with the provisions of subsection 40C-2.042(2), F.A.C., and provided the amount of water used is limited to only that necessary for efficient utilization. For the purpose of this rule, “landscape irrigation” means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, public, commercial, and industrial establishments, and public medians and rights-of-way, but it does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with recreational areas such as playgrounds, football, baseball and soccer fields. For the purpose of this rule, the terms “residential landscape irrigation” and “non-residential landscape irrigation” are defined in this paragraph (a) as follows. “Residential landscape irrigation” means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes. “Non-residential landscape irrigation” means the irrigation of landscape not included within the definition of “residential landscape irrigation,” such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way. For the purpose of this rule, “address” means the “house number” of the physical location of a specific property. This excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Services to determine a delivery location, the lot number shall be the property’s address. An “even numbered address” means an address ending in the numbers 0, 2, 4, 6, 8 or letters A-M. An “odd numbered address” means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

1. When Daylight Savings Time is in effect, landscape irrigation shall occur in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. Landscape irrigation shall be subject to the following exceptions:

a. Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed anytime.

b. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.

c. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed 1/4 inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

d. Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per irrigation zone.

e. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.

f. Discharge of water from a water-to-air air conditioning unit or other water dependent cooling system is not limited by this permit.

g. The use of water from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

h. The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

4. When reclaimed water is available, the use of a private irrigation well for landscape irrigation is not authorized under subsection 40C-2.042(2), F.A.C. Reclaimed water is deemed available when reclaimed water is provided by a utility through a point of connection.

5. Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred.

(b)1. A local government is strongly encouraged to enforce paragraph 40C-2.042(2)(a), F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the provisions set forth in paragraph 40C-2.042(2)(a), F.A.C.

2. Where a local government has adopted a landscape irrigation ordinance, if the strict application of the specified day of week schedule would lead to unreasonable or unfair results in particular instances, the local government may grant a variance from the specific day or days for landscape irrigation identified in subparagraph 40C-2.042(2)(a)1. and 2., F.A.C., provided that the applicant demonstrates with particularity that compliance with the schedule of days for landscape irrigation will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance may be granted hereunder so that each zone may be irrigated on different days than other zones of the property. However, no single zone may be irrigated more than 2 days a week when Daylight Savings Time is in effect and no more than 1 day per week when Eastern Standard Time is in effect. Local governments shall not grant a variance from any other provision of this rule.

3. At least 30 days prior to the adoption of an ordinance to enforce paragraph 40C-2.042(2)(a), F.A.C., the local government shall provide a copy of the proposed ordinance to the District.

(c) A person proposing to use water for landscape irrigation where factors establish the need for irrigation to occur in a manner other than that authorized in subsection 40C-2.042(2), F.A.C., may submit an application for a Standard General Consumptive Use Permit pursuant to Chapter 40C-20, F.A.C., using form 40C-2-1082-2. Standard General Consumptive Use Permit for Landscape Irrigation, form number 40C-2-1082-2, effective 3-8-09, is hereby incorporated by reference. This permit application is limited to including no more than 25 nearby properties within a common plan of development. If a development consists of more than one phase or section, the 25 properties must be located within a single phase or section. A person seeking authorization to irrigate more than 1 additional day than that authorized by subsection 40C-2.042(2), F.A.C., must apply for a Standard General Consumptive Use Permit pursuant to Chapter 40C-20, F.A.C., using form 40C-2-1082-1.

(3) The Board hereby grants a general permit for all aquacultural consumptive uses of water located within the District provided the containment or impoundment facility utilized to cultivate the aquacultural product has no off-site surface water discharge and an aerator is used to add oxygen to the facility when necessary. Such water use is limited to the amount necessary to accomplish average expected production. The use of reclaimed water within an aquacultural facility shall not be subject to these restrictions provided appropriate signs are placed on the property to inform the general public and District enforcement personnel of such use.

(4) The Board hereby grants a general permit for all existing and proposed ornamental and aerating fountains within the District, provided the same water is recirculated, there is no off-site discharge and the fountain is properly installed, maintained and operated to ensure that a minimal amount of water is used. Non-recirculating fountains in existence on 7-23-91 shall be retrofitted to meet the requirements of this subsection by 7-23-93.

(5) The Board hereby grants a general permit to each person located within the District to use water to create a containment or impoundment facility solely for aesthetic purposes, provided

the containment or impoundment facility is not augmented thereafter from any ground or off-site surface water source.

(6) The Board hereby grants a general permit to each person located within the District to use water for the augmentation of any pond which is 1/2 acre or smaller in size, provided the following conditions are met:

(a) The water for augmentation shall be withdrawn from a well with an inside diameter of the largest permanent water bearing casing of no more than 2 inches;

(b) Augmentation of the water level must not occur if the pond is discharging offsite, except that augmentation may occur to flush the pond no more than two times per year; and

(c) Augmentation of the water level in the pond must not occur above the average water table condition for the site.

(7) The Board hereby grants a general permit to each person located within the District to withdraw or divert water for uses other than those identified in subsections (1)-(6) provided the amount is limited to only that necessary for efficient utilization.

(8) The Board hereby grants a general permit to each person located within the District to withdraw groundwater from a well solely to irrigate a total of one acre or less of landscape on contiguous property, provided the withdrawal does not meet or exceed any thresholds of paragraphs 40C-2.041(1)(a)-(c), F.A.C. This permit is subject to all the provisions in paragraph 40C-2.042(2)(a), F.A.C. When reclaimed water is available, the use of a private irrigation well for landscape irrigation is not authorized under this subsection. Reclaimed water is deemed available when reclaimed water is provided by a utility through a point of connection.

Rulemaking Authority 373.044, 373.109, 373.113, 373.118, 373.171 FS. Law Implemented 373.019(6), 373.109, 373.118, 373.219, 373.223, 373.250, 373.609, 373.62 FS. History—New 7-23-91, Amended 1-7-99, 2-15-06, 3-8-09.

40C-2.051 Exemptions.

No permit shall be required under the provisions of this chapter or Chapter 40C-20 or 40C-22, F.A.C., for the following water uses:

(1) Domestic consumption of water by individual users as defined by Section 373.019(4), Florida Statutes.

(2) Those uses for which certification has been obtained pursuant to the provisions of the Florida Electrical Power Plant Siting Act or the Statewide Multipurpose Hazardous Waste Facility Siting Act.

(3) Withdrawals of ground or surface water to facilitate construction on or below ground surface or to remove pollutants from contaminated water, in the following circumstances:

(a) Ground water may be withdrawn in any quantity for any duration if it is recharged on site to the aquifer from which it was withdrawn by either infiltration or direct injection.

(b) Surface water may be withdrawn in any quantity for any duration only from wholly-owned impoundments or works which are no deeper than the lowest extent of the uppermost water bearing stratum and which have no surface hydrologic connection off site, and the surface water must be recharged on site to the uppermost water bearing stratum by either infiltration or direct injection.

(c) Infiltration under this subsection may be accomplished by the use of land application or by discharge to wholly-owned impoundments or works, so long as there is no surface discharge off site. The withdrawal and recharge under this subsection must be done in a manner that does not contravene paragraphs 40C-2.301(2)(b), (4)(f), (g), (h), (i) and (5), F.A.C.

(d) Ground water may be withdrawn from wells which withdraw from the surficial aquifer provided the cumulative withdrawals at any one time do not exceed 100,000 gallons per day.

(4) Withdrawals of groundwater for aquifer performance tests requested by District staff as information needed to review a consumptive use permit application, provided that the withdrawal of water for the pump test shall be for a period of not more than 30 days, shall not interfere with existing uses of water and shall be performed in accordance with an aquifer performance test plan approved by District staff.

(5) Withdrawals of surface water solely for flood control when:

(a) The withdrawal is accomplished by and was approved as part of a surface water management system which has received a management and storage of surface water permit pursuant to Chapter 40C-4, F.A.C., or

(b) The withdrawal is conducted by a municipality, county, agency of the executive branch of the state or the federal government and is accomplished by a surface water management system which meets the terms and conditions of the exemption contained in subsection 40C-4.051(2), F.A.C., and the withdrawal is consistent with the system's plans, specifications, and performance criteria existing on the relevant exemption date.

(6) Water, whether withdrawn or diverted, when used for purposes of protection of fish and wildlife or the public health and safety when and where the Governing Board has, by Rule 40C-2.302, F.A.C., reserved said water from use by permit applicants pursuant to subsection 373.223(3), F.S.

(7) Withdrawals of ground or surface water to facilitate construction (not including borrow or mining excavations) on or below ground surface (dewatering) subject to the following conditions:

(a) The withdrawal is conducted by one of the following:

1. A conventional wellpoint system consisting of one or more stages of wellpoints installed near the excavation in lines or rings. These wellpoints shall be installed in variable spacings, and connected to a common header pumped by one or more wellpoint pumps.

2. Vacuum underdrain consisting of a typical pipeline dewatering with the underdrain or "sock" placed horizontally below the design invert elevation of the pipeline via a large trenching machine. The underdrain is connected to a pump with the water conveyed through the underdrain and discharged from the pump.

3. Shallow vacuum well consisting of one or more stages installed near an excavation in lines or rings. Vacuum wells shall be constructed of six inch or smaller pipe with a slotted screen area near the bottom of the well, and connected to a common header pumped by one or more pumps.

4. Hydraulic pumps to dewater stormwater management ponds and basins, as part of their construction or maintenance, through the discharge control structures. The stormwater management pond or basin and associated discharge control structure must have been permitted by the District and be in operational phase at the time the dewatering is to occur.

(b) The withdrawal is 300,000 gallons per day or less.

(c) The withdrawal does not exceed 30 days in duration.

(d) The water withdrawn is not discharged directly into an Outstanding Florida Water (OFW), Class I or Class II waterbody. A direct discharge means a discharge which enters OFW, Class I or Class II waters without an adequate opportunity for prior mixing and dilution to prevent significant degradation.

(e) The following turbidity control measures are implemented, as appropriate, for any discharges off-site:

1. If the discharge is to be to a drainage system, the water shall be piped directly into the drainage structure, if possible; but if the discharge is through a swale or overland to a structure or water body, the path of discharge shall be lined with visqueen plastic, sod or hay bales appropriately, to prevent a turbid discharge to the structure or water body.

2. If water will discharge to an open water body, appropriate fabric silt screen or hay bales shall be used to prevent turbid discharges. When possible, a detention area shall be established to allow suspended solids to settle prior to entering the water body.

3. If the above turbidity control measures are inadequate to retain sediment on-site and prevent turbid discharge, additional or modified erosion and sediment control measures must be selected, implemented, and operated as necessary to prevent violations of water quality standards as specified in Chapter 62-302, F.A.C.

(8) Withdrawals of surface water (dewatering) by a drainage pump, which serves an agricultural operation, provided that the operation of the pump has been authorized by a permit issued pursuant to Chapter 40C-44 or Chapter 40C-4 or 40C-40, F.A.C., which incorporated the requirements of Chapter 40C-44, F.A.C. However, activities which are exempt from the requirements of Chapters 40C-4, 40C-40, and 40C-44, F.A.C., are not exempt from the need to obtain a consumptive use permit under this subsection.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 288.501 et seq., 373.103, 373.171, 373.216, 373.219, 403.501 et seq. FS. History—New 1-1-83, Formerly 40C-2.051, 40C-2.0051, Amended 8-18-87, 11-19-87, 9-12-89, 12-6-93, 8-17-94, 4-25-96, 10-2-96, 11-11-03, 2-15-06.

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, the “Water Conservation Public Supply” requirements in Appendix I, and “Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District” in Appendix L of the document entitled “Applicant’s Handbook, Consumptive Uses of Water”, 2-2-12. The purpose of the document is to provide information regarding the policy, procedure, criteria, and conditions that pertain to the District’s administration of the consumptive use permitting program.

(2) Copies of this document are available without charge from the following District offices:

District Headquarters
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177-2529
(386)329-4500

St. Johns River Water Management District
7775 Baymeadows Way, Suite 102
Jacksonville, Florida 32256
(904)730-6270

St. Johns River Water Management District
601 South Lake Destiny Road, Ste. 200

Maitland, Florida 32751
(407)659-4800

St. Johns River Water Management District
525 Community College Pkwy., S.E.
Palm Bay, Florida 32909
(321)984-4940

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.073, 373.079, 373.083(5), 373.103, 373.109, 373.219, 373.223, 373.229, 373.233, 373.236, 373.239, 373.250, 373.62, 373.707 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, 2-15-06, 2-13-08, 8-12-08, 3-8-09, 12-27-10, 2-2-12.

40C-2.301 Conditions for Issuance of Permits.

(1) To obtain a consumptive use permit for a use existing on the effective date of implementation, the applicant shall apply for a permit under the provisions of Section 373.226, Florida Statutes, and subsection 40C-2.041(2), F.A.C., and shall establish that it is a reasonable-beneficial use and is allowable under the common law of Florida.

(2) To obtain a consumptive use permit for a use which will commence after the effective date of implementation, the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.

(3) For purposes of paragraph (2)(b) above, “presently existing legal use of water” shall mean those legal uses which exist at the time of receipt of the application for the consumptive use permit.

(4) The following criteria must be met in order for a use to be considered reasonable-beneficial:

(a) The use must be in such quantity as is necessary for economic and efficient utilization.

(b) The use must be for a purpose that is both reasonable and consistent with the public interest.

(c) The source of the water must be capable of producing the requested amounts of water.

(d) The environmental or economic harm caused by the consumptive use must be reduced to an acceptable amount.

(e) All available water conservation measures must be implemented unless the applicant demonstrates that implementation is not economically, environmentally or technologically feasible. Satisfaction of this criterion may be demonstrated by implementation of an approved water conservation plan as required in section 12.0., Applicant’s Handbook: Consumptive Uses of Water.

(f) When reclaimed water is readily available it must be used in place of higher quality water sources unless the applicant demonstrates that its use is either not economically, environmentally or technologically feasible.

(g) For all uses except human food preparation and direct human consumption, the lowest acceptable quality water source, including reclaimed water or surface water (which includes

stormwater), must be utilized for each consumptive use. To use a higher quality water source an applicant must demonstrate that the use of all lower quality water sources will not be economically, environmentally, or technologically feasible. If the applicant demonstrates that use of a lower quality water source would result in adverse environmental impacts that outweigh water savings, a higher quality source may be utilized.

(h) The consumptive use shall not cause significant saline water intrusion or further aggravate currently existing saline water intrusion problems.

(i) The consumptive use shall not cause or contribute to flood damage.

(j) The water quality of the source of the water shall not be seriously harmed by the consumptive use.

(k) The consumptive use shall not cause or contribute to a violation of state water quality standards in receiving waters of the state as set forth in Chapters 62-3, 62-4, 62-302, 62-520, and 62-550, F.A.C., including any anti-degradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), and Rule 62-302.300, F.A.C., and any special standards for Outstanding National Waters set forth in subsections 62-4.242(2) and (3), F.A.C. A valid permit issued pursuant to Chapter 62-660 or 62-670, F.A.C., or Rule 62-4.240, F.A.C., or a permit issued pursuant to Chapter 40C-4, 40C-40, 40C-42, or 40C-44, F.A.C., which authorizes the discharge associated with the consumptive use shall establish that this criterion has been met, provided the applicant is in compliance with the water quality conditions of that permit.

(l) The consumptive use must not cause water levels or flows to fall below the minimum limits set forth in Chapter 40C-8, F.A.C.

(5)(a) A proposed consumptive use does not meet the criteria for the issuance of a permit set forth in subsection 40C-2.301(2), F.A.C., if such proposed water use will:

1. Significantly induce saline water encroachment; or
2. Cause the water table or surface water level to be lowered so that stages or vegetation will be adversely and significantly affected on lands other than those owned, leased or otherwise controlled by the applicant; or
3. Cause the water table level or aquifer potentiometric surface level to be lowered so that significant and adverse impacts will affect existing legal users; or
4. Require the use of water which pursuant to Section 373.223(3), Florida Statutes, and subsection 40C-2.301(6), F.A.C., the Board has reserved from use by permit; or
5. Cause the rate of flow of a surface watercourse to be lowered below any minimum flow which has been established in Chapter 40C-8, F.A.C.; or
6. Cause the level of a water table aquifer, the potentiometric surface level of an aquifer, or the water level of a surface water to be lowered below a minimum level which has been established in Chapter 40C-8, F.A.C.

(b) Compliance with the criteria set forth in paragraph (5)(a) above does not preclude a finding by the Board that a proposed use fails to comply with the criteria set forth in subsection 40C-2.301(2), F.A.C., above.

(6)(a) The Board may reserve water from use or withdrawal under the authority of a consumptive use permit, in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. The Board hereby determines and finds that protection of the water resource from significant harm is required for protection of the public health and safety.

(b) Such reservation of water shall be implemented by rule, pursuant to Section 373.223(3), Florida Statutes, and shall be subject to periodic review and revisions by the Board

in the light of changed conditions.

(7) The applicant shall have the burden of proof to establish and present sufficient data to support a finding by the Board that the proposed use meets the conditions specified in subsection (1) or (2). The standards, criteria, and conditions in the Applicant's Handbook: Consumptive Uses of Water, adopted by reference in Rule 40C-2.101, F.A.C., shall be used in determining whether the requirements of subsection (1) or (2) are met.

Rulemaking Authority 373.044, 373.113, 373.171, 373.229 FS. Law Implemented 373.196, 373.223, 373.224, 373.226, 373.250 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.301, 40C-2.0301, Amended 7-23-91, 9-16-92, 1-20-93, 6-7-93, 1-7-99, 2-13-08.

40C-2.302 Reservation of Water from Use.

The Governing Board finds that reserving a certain portion of the surface water flow through Prairie Creek and Camps Canal south of Newnans Lake in Alachua County, Florida, is necessary in order to protect the fish and wildlife which utilize the Paynes Prairie State Preserve, in Alachua County, Florida. The Board therefore reserves from use by permit applicants that portion of surface water flow in Prairie Creek and Camps Canal that drains by gravity through an existing multiple culvert structure into Paynes Prairie. This reservation is for an average flow of 35 cubic feet per second (23 million gallons per day) representing approximately forty five percent (45%) of the calculated historic flow of surface water through Prairie Creek and Camps Canal.

Rulemaking Authority 373.044, 373.113, 373.171, 373.216, 373.219 FS. Law Implemented 373.219, 373.223 FS. History—New 8-17-94.

40C-2.311 Competing Applications.

(1) If two or more complete applications for consumptive use permits, which otherwise comply with the provisions of Chapter 40C-2, F.A.C., and Chapter 373, Florida Statutes, are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, the Board shall have the right to approve or modify the application which best serves the public interest.

(2) In the event that two or more competing applications qualify equally under the provisions of subsection (1), the Board shall give preference to a renewal application over an initial application.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.233 FS. History—New 1-1-83, Formerly 40C-2.311, 40C-2.0311.

40C-2.321 Duration of Permit.

(1) The provisions of section 6.5, Applicant's Handbook: Consumptive Uses of Water, shall be applied in determining permit durations.

(2) Nothing herein shall preclude or otherwise prevent the Board from terminating, revoking, or temporarily suspending any permit in accordance with these rules or taking such other action as may be provided for in the permit.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.236, 373.243 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.321, 40C-2.0321, Amended 7-23-91, 11-12-91, 1-20-93, 4-25-96, 11-11-03.

40C-2.331 Modification of Permits.

(1) A request for modification of a valid permit issued pursuant to Chapters 40C-2 or 40C-20, F.A.C., shall be made as set forth in this section:

(a) By application on District Form Number 40C-2-1082-1 or 40C-2-1082-2, as applicable; or

(b) By letter that describes the proposed modification, provided that the modification is not excluded under paragraph (1)(c) below. The letter must include the full permit number for the requested permit modification and must describe the proposed modification.

(c) The following requests for modification are specifically excluded from the letter modification process and must be requested by application under paragraph (1)(a) above:

1. Requests to increase the duration of the consumptive use authorization;

2. Requests to increase the consumptive use allocation(s), except for:

(i) Increases in use of reclaimed water or water from a man-made surface water management system that do not increase the allocation by 100,000 or more gallons per day on an annual average basis, or

(ii) The addition of landscape irrigation of less than one acre;

3. Requests to change the permitted use type;

4. Requests to change the permitted use within a use type that has been allocated in the permit, unless it does not increase the consumptive use allocation(s);

5. Requests to add withdrawal points, unless the addition is for a well only for backup-allocation purposes to increase the permittee's ability to meet peak demands;

6. Requests to change the source(s) of withdrawal(s), unless the change is to use a source of reclaimed water or water from a man-made surface water management system; or

7. Requests to change the location(s) of withdrawal point(s), unless the change:

(i) Is for the relocation of withdrawal point(s) to a source of reclaimed water or water from a man-made surface water management system, or

(ii) Is for the relocation of a proposed well or replacement of an existing well with a well producing from the same hydrostratigraphic unit as the proposed well or existing well so long as the relocated or replacement well is within 1000 feet of the proposed or existing well it is intended to replace, and the total withdrawal capacity of the relocated or replacement well is less than or equal to the withdrawal capacity of the proposed or existing well that was authorized under the current consumptive use permit.

(2) A request for modification under paragraph (1)(a) above must meet the conditions for issuance in Rule 40C-2.301, F.A.C. A request for modification by letter in accordance with paragraph (1)(b) above need only provide information and meet the conditions for issuance in Rule 40C-2.301, F.A.C., that relate to the modification request, in accordance with Section 373.239(2), F.S. A permit which has expired or which has been revoked shall not be subject to modification. A denial of a request for modification under paragraphs (1)(a) or (1)(b) above shall be processed as provided in sections 3.3.3.1(b) and 3.3.3.2 of the Applicant's Handbook, Consumptive Uses of Water (2-2-12), which are hereby incorporated by reference.

(3) Modification by letter in accordance with paragraph (1)(b) above must be approved and acknowledged in writing through correspondence to the applicant by a District staff member designated by the District Executive Director.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.083(5), 373.219, 373.223, 373.229, 373.239 FS. History—New 1-2-77, Amended 1-1-83, Formerly 40C-2.33, 40C-2.331, 40C-2.0331, Amended 4-25-96, 10-2-96, 2-2-12.

40C-2.351 Transfer of Permits.

The District may transfer a permit in accordance with Chapter 40C-1, F.A.C. The permit will be transferred under the same terms and conditions contained in the permit provided the source and use remain the same. All terms and conditions of the permit shall be binding on the transferee.

Rulemaking Authority 373.113 FS. Law Implemented 373.223, 373.229, 373.239 FS. History—New 1-2-77, Amended 1-1-83, Formerly 40C-2.35, 40C-2.351, 40C-2.0351, Amended 8-1-89.

40C-2.361 Renewal of Permits.

(1) A permittee may apply to the Board for renewal of a permit no earlier than one year prior to the termination of the permit unless the permittee shows good cause for earlier consideration.

(2) Applications for renewal of consumptive use permits shall be processed in accordance with the provisions of Chapter 40C-1, F.A.C.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.239 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.361, 40C-2.0361.

40C-2.381 Limiting Conditions.

(1) The District will impose upon any permit granted pursuant to this Chapter such reasonable conditions as are necessary to assure that the permitted use of water will continue to be consistent with the conditions for issuance in Rule 40C-2.301, F.A.C.

(2)(a) The Board hereby determines and finds that the inclusion of the following limiting conditions on standard general permits issued under Chapter 40C-20, F.A.C., and permits issued under this chapter are necessary in order to meet the requirements set forth in subsection 40C-2.381(1), F.A.C., and will be imposed at the time a consumptive use permit is issued or granted by rule unless waived or modified by the District upon a determination that the conditions are inapplicable to the activity authorized by the permit:

1. District authorized staff, upon proper identification, will have permission to enter, inspect and observe permitted and related facilities in order to determine compliance with the approved plans, specifications and conditions of this permit.

2. Nothing in this permit should be construed to limit the authority of the St. Johns River Water Management District to declare a water shortage and issue orders pursuant to Section 373.175, F.S., or to formulate a plan for implementation during periods of water shortage, pursuant to Section 373.246, F.S. In the event a water shortage is declared by the District Governing Board, the permittee must adhere to the water shortage restrictions, as specified by the District, even though the specified water shortage restrictions may be inconsistent with the terms and conditions of this permit.

3. Prior to the construction, modification or abandonment of a well, the permittee must obtain a water well permit from the St. Johns River Water Management District or the appropriate local government pursuant to Chapter 40C-3, F.A.C. Construction, modification, or abandonment of a well will require modification of the consumptive use permit when such construction, modification, or abandonment is other than that specified and described on the consumptive use permit application form.

4. Leaking or inoperative well casings, valves, or controls must be repaired or replaced as required to eliminate the leak or make the system fully operational.

5. The permittee's consumptive use of water as authorized by this permit shall not interfere with legal uses of water existing at the time of permit application. If interference occurs,

the District shall revoke the permit, in whole or in part, to curtail or abate the interference, unless the interference associated with the permittee's consumptive use of water is mitigated by the permittee pursuant to a District-approved plan.

6. The permittee's consumptive use of water as authorized by this permit shall not have significant adverse hydrologic impacts to off-site land uses existing at the time of permit application. If significant adverse hydrologic impacts occur, the District shall revoke the permit, in whole or in part, to curtail or abate the adverse impacts, unless the impacts associated with the permittee's consumptive use of water are mitigated by the permittee pursuant to a District-approved plan.

7. The District must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of a well or facility from which the permitted consumptive use is made or within 30 days of any transfer of ownership or control of the real property at which the permitted consumptive use is located. All transfers of ownership or transfers of permits are subject to the provisions of Rule 40C-1.612, F.A.C.

8. A District-issued identification tag shall be prominently displayed at each withdrawal site by permanently affixing such tag to the pump, headgate, valve, or other withdrawal facility as provided by Rule 40C-2.401, F.A.C. Permittee shall notify the District in the event that a replacement tag is needed.

9. The permittee's consumptive use of water as authorized by this permit shall not significantly and adversely impact wetlands, lakes, rivers, or springs. If significant adverse impacts occur, the District shall revoke the permit, in whole or in part, to curtail or abate the adverse impacts, unless the impacts associated with the permittee's consumptive use of water are mitigated by the permittee pursuant to a District-approved plan.

10. The permittee's consumptive use of water as authorized by this permit shall not reduce a flow or level below any minimum flow or level adopted in Chapter 40C-8, F.A.C. If the permittee's use of water causes or contributes to such a reduction, then the District shall revoke the permit, in whole or in part, unless the permittee implements all provisions applicable to the permittee's use in a District-approved recovery or prevention strategy.

11. The permittee's consumptive use of water as authorized by the permit shall not cause or contribute to significant saline water intrusion. If significant saline water intrusion occurs, the District shall revoke the permit, in whole or in part, to curtail or abate the saline water intrusion, unless the saline water intrusion associated with the permittee's consumptive use of water is mitigated by the permittee pursuant to a District-approved plan.

12. The permittee's consumptive use of water as authorized by the permit shall not cause or contribute to flood damage. If the permittee's consumptive use causes or contributes to flood damage, the District shall revoke the permit, in whole or in part, to curtail or abate the flood damage, unless the flood damage associated with the permittee's consumptive use of water is mitigated by the permittee pursuant to a District-approved plan.

13. The permittee's consumptive use of water as authorized by the permit shall not cause or contribute to a violation of state water quality standards (existing at the time of permit issuance) in receiving waters of the state, as set forth in Chapters 62-3, 62-4, 62-302, 62-520 and 62-550, F.A.C., including any anti-degradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), and Rule 62-302.300, F.A.C., and any special standards for Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C. If violations occur, the District shall revoke the permit, in whole or in part, to curtail or abate the

violations, unless the violations associated with the permittee's consumptive use of water are mitigated by the permittee pursuant to a District-approved plan.

(b) In addition to these general limiting conditions which are applied to all permits, other limiting conditions will be applied to specific permits. These additional limiting conditions are described in Part III, "Applicant's Handbook Consumptive Uses of Water".

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.216, 373.219(1), 373.223 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.381, 40C-2.0381, Amended 8-1-89, 7-23-91, 2-15-06, 2-2-12.

40C-2.401 Identification Tags.

(1) Upon issuance of a consumptive use permit, the Board shall issue a permanent tag bearing a use identification number, which tag shall, as a condition of the permit, be prominently displayed at the site of withdrawal by permanently affixing such tag to the pump, headgate, valve, or other withdrawal facility. If the permit covers several facilities such as a wellfield, a tag shall be issued for each facility and attached thereto.

(2) Failure to display a permit tag as prescribed herein shall constitute violation of a permit condition and may, if willful, be grounds for revocation of the permit. The permittee shall be allowed ten (10) days after the notice of violation of this rule to obtain a replacement tag.

Rulemaking Authority 373.044, 373.113, 373.216 FS. Law Implemented 373.219 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.401, 40C-2.0401.

40C-2.441 Temporary Permits.

The Board or the Executive Director may issue temporary consumptive use permits in accordance with the provisions of Section 373.244, Florida Statutes.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.244 FS. History—New 1-1-83, Formerly 40C-2.441, 40C-2.0441.

40C-2.501 Permit Classification.

(1) Each permit shall be classified by the District according to type of use, source, and location of withdrawal as a subclass or category of source.

(2) Use Types: Each permit shall be identified with one or more of the following use classifications:

- (a) Agricultural.
- (b) Commercial/Industrial/Institutional.
- (c) Environmental.
- (d) Landscape/Recreation/Aesthetic.
- (e) Mining/Dewatering.
- (f) Public Supply.
- (g) Other.

(3) Source Classes: Each permit shall be identified with one or more of the following source classifications:

- (a) Streams or other watercourses.
- (b) Lakes or other impoundments.
- (c) Unconfined aquifers.
- (d) Confined or semiconfined aquifers.
- (e) Water supplier.

(4) Location of Withdrawal: Each permit shall be classified as to the location from which the

withdrawal is made.

(5) The Board may establish additional classifications as are reasonably needed.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.219, 373.246 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.501, 40C-2.0501, Amended 1-20-93, 2-15-95, 2-2-12.

40C-2.900 Forms and Instructions.

(1) Individual and Standard General Consumptive Use Permit Application, Form Number 40C-2-1082-1, effective 2-2-12, is hereby incorporated by reference. This form is referenced in paragraphs 40C-2.042(2)(c) and 40C-2.331(1)(a), F.A.C., and in sections 3.3.3(b), 4.2, 5.5.1(c), and 6.5.5 of the “Applicant’s Handbook, Consumptive Uses of Water” (effective 2-2-12), which is incorporated by reference in subsection 40C-2.101(1), F.A.C.

(2) Standard General Consumptive Use Permit for Landscape Irrigation, Form Number 40C-2-1082-2, effective 3-8-09, is hereby incorporated by reference. This form is referenced in paragraphs 40C-2.042(2)(c) and 40C-2.331(1)(a), F.A.C., and in sections 3.3.3(b), 4.2, and 5.5.1(c) of the “Applicant’s Handbook, Consumptive Uses of Water” (effective 2-2-12), which is incorporated by reference in subsection 40C-2.101(1), F.A.C.

(3) District form number 40C-2-0590-3, Water Audit Form and Instructions, 1-7-99.

(4) Water Use Record (EN-50), Form Number 40C-2.900(4), effective 2-2-12, is hereby incorporated by reference. This form is referenced in section 6.7.1.8.1 of the “Applicant’s Handbook, Consumptive Uses of Water” (effective 2-2-12), which is incorporated by reference in subsection 40C-2.101(1), F.A.C.

(5) Water Use Reporting Verification (EN-51), Form Number 40C-2.900(5), effective 2-2-12, is hereby incorporated by reference. This form is referenced in section 6.7.1.8.1 of the “Applicant’s Handbook, Consumptive Uses of Water” (effective 2-2-12), which is incorporated by reference in subsection 40C-2.101(1), F.A.C.

(6) Annual Statement of Continuing Use, Form Number 40C-2.900(6), effective 2-2-12, is hereby incorporated by reference. This form is referenced in section 6.7.1.8.1 of the “Applicant’s Handbook, Consumptive Uses of Water” (effective 2-2-12), which is incorporated by reference in subsection 40C-2.101(1), F.A.C..

(7) Copies of these forms are available without charge at the District’s website at floridaswater.com and from the following District offices:

District Headquarters
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177-2529
(386)329-4500

St. Johns River Water Management District
7775 Baymeadows Way, Suite 102
Jacksonville, Florida 32256
(904)730-6270

St. Johns River Water Management District
601 South Lake Destiny Road, Suite 200
Maitland, Florida 32751
(407)659-4800

St. Johns River Water Management District
525 Community College Pkwy., S.E.
Palm Bay, Florida 32909
(321)984-4940

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.116, 373.118, 373.219, 373.229 FS. History—New 5-30-90, Amended 7-21-91, 7-23-91, 1-20-93, 2-15-95, 4-25-96, 10-2-96, 1-7-99, 2-15-06, 3-8-09, 2-2-12.